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Letter Ruling 79-28: Unit Investment Trust

August 23, 1979

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This is in reply to your letter of August 14, 1979, requesting rulings with respect to the Massachusetts income tax consequences of ***** Exempt Income Trust - Series 1 ("***** Series 1") now being organized by your client,

***** Series 1 will be organized in the form of a unit investment trust established under the laws of the Commonwealth of Massachusetts. The trustee of ***** Series 1 will be [a Boston trust company] and Series 1's principal place of business will be in Massachusetts. Beneficial interests or shares in ***** Series 1 will be represented by transferable certificates, which will be offered and sold to both residents and non-residents of Massachusetts.

***** Series 1 will be organized to hold bonds the interest on which is exempt from federal and state personal income taxes. [Client] will act as the Sponsor of ***** Series 1. ***** Series 1 will invest in bonds issued by the Government of Puerto Rico or by its authority.

The Trustee of ***** Series 1 will not have authority to vary the original portfolio of bonds purchased by the Trust. Accordingly, under Section 301.7701-4(c) of the U.S. Treasury Regulations, ***** Series 1 will be treated as a trust for federal income tax purposes and not as an "association" taxable as a corporation. Moreover, since each Certificateholder will have the right at any time to revoke his interest in the Trust by having his certificate redeemed, ***** Series 1 will be treated for federal income tax purposes as a "grantor trust" under Section 676(a) of the Internal Revenue Code of 1954.

Subject to the receipt favorable ruling from the Internal Revenue Service and certain other conditions, Certificateholders in ***** Series 1 will be afforded the opportunity to automatically reinvest principal and income distributions in units of other ***** Exempt Income Trust established by the Sponsor.

Based upon the foregoing, it is ruled that:

1. For Massachusetts personal income tax purposes, ***** Series 1 will be treated as a corporate trust under Section 8 of Chapter 62 of the Massachusetts General Laws and not as a grantor trust under Section 10(e) of Chapter 62 of the Massachusetts General Laws.

- 2. Interest received by ***** Series 1 on bonds issued by the Government of Puerto Rico or by its authority will not be includible in the Massachusetts gross income of either ***** Series 1 or its Certificateholders.
- 3. Gain or loss on the sale or exchange of bonds issued by the Government of Puerto Rico, or by its authority, will be includible in the Massachusetts gross income of ***** Series 1.
- 4. Certificateholders of ***** Series 1 who are subject to Massachusetts personal income taxes under Chapter 62 of the Massachusetts General Laws will not be required to include in their Massachusetts gross income distributions received from ***** Series 1.
- 5. Certificateholders of ***** Series 1 who are subject to Massachusetts personal income taxes under Chapter 62 of the Massachusetts General Laws (a) will not be required to take into account in determining their Massachusetts gross income gain or loss realized by ***** Series 1 on the disposition by ***** Series 1 of a bond; but (b) will be required to take into account in determining their Massachusetts gross income gain or loss realized upon the sale or redemption of their Certificate.
- 6. Certificateholders of ***** Series 1 who are individuals who are not residents of Massachusetts will not be subject to the Massachusetts personal income tax, imposed under Massachusetts General Laws Chapter 62, on either distributions from ***** Series 1 or gain realized on the sale or redemption of their Certificate.

Very truly yours,

/s/L. Joyce Hampers

L. Joyce Hampers
Commissioner of Revenue

LJH/JJW/jmp

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